

## REMARKS

Claims 1-21 have been amended. Claim 22 has been added.

Payment in the amount of \$250 for the added independent claim 22 is being submitted with this Amendment by Electronic Funds Transfer.

The Examiner has objected to claims 7 and 20 because of certain informalities. In particular, the Examiner has objected to the recitation “without receiving the output of the stop of detecting means after the start of photographing” in claim 7 and to the recitation “a memory interface of writing moving image data output in the image pickup step in a memory and for reading out the moving image data from the memory” in claim 20 as not being a method step. Applicant has amended claim 7 to recite “without receiving a detecting result of the free space of the storage capacity of the storage medium is not enough from said detecting means” and believes that the Examiner’s objection with respect to claim 7 has been obviated. Applicant has also amended claim 20 to replace the “memory interface” recitation with “a memory writing and reading step” so as to recite a step of the method, thus obviating the Examiner’s objection with respect to this claim.

The Examiner has rejected applicant’s claims 9-18 and 20-21 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has pointed out that the recitations “while the first memory is changed to the second memory” in claim 9 and “having an amount concerning detection timing performed by detecting means” in claim 10 are unclear. Applicant has amended claim 9 to recite that “the moving image data is written in the storage device while switching from the storage medium to the storage device” and that the “storage device [is] different from the storage medium” so as to further clarify this

recitation. Applicant has also amended claim 10 to recite the transmission being stopped “in response to completion of the transmission of the moving image data of an amount corresponding to timing of detection of that the free space of the storage capacity of the storage medium is not enough” so as to clarify this recitation. Applicant believes that the amendments to claims 9 and 10 clarify the subject matter claimed in these claims and that claims 9 and 10, as amended, are in compliance with 35 USC 112, second paragraph.

The Examiner has also pointed out that claims 12 and 20 recite limitations “communicating means for transmitting the moving image data to an external device” and “communicating step of transmitting the moving image data to an external device,” respectively, and that it is unclear whether the image data being transmitted is the image data from the memory or from the storage device. The Examiner has also indicated that the recitation “while the memory is changed to the storage device” in claims 12 and 20 is unclear. Applicant has amended claims 12 and 20 to recite the communication means/step for transmitting the moving image data stored in at least one of the memory and the storage device to an external apparatus” so as to clarify from where the image data is being transmitted. Applicant has also amended claims 12 and 20 to recite “switching writing of the moving image data input in the image pickup step from the memory to the storage device” so as to clarify this limitation. Applicant believes that claims 12 and 20 clearly recite, particularly point out and distinctly claim the subject matter that applicant regards as the invention and are thus, in compliance with 35 USC 112, second paragraph.

The Examiner has also indicated that there is insufficient antecedent basis for the limitation “the external device” in claims 13, 14 and 21 and for the limitation “the retaining means” in claim 14. Applicant has amended applicant’s claims 13 and 21 to recite “an external

device” and claim 14 to recite “said saving means” instead of “the retaining means” and believes that the limitations in claims 13, 14 and 21 now have sufficient antecedent basis. Applicant, therefore, believes that applicant’s claims 9-18 and 20-21 are in compliance with 35 USC 112, second paragraph, and that the Examiner’s rejection has been respectfully traversed.

The Examiner has rejected applicant’s claims 1-11, 13-19 and 21 under 35 USC 103 as being unpatentable over the Todaka, et al. (Japanese Appln. Publication No. 11-069305) in view of the Porter, et al. (U.S. Pat. Appln. Publication No. 2003/0184662) publication. The Examiner has rejected applicant’s claims 12 and 20 under 35 USC 103(a) as being unpatentable over the Todaka publication in view of the Akutsu (Japanese Appln. Publication No. 10-145717) and further in view of the Porter, et al. publication. Applicant has amended applicant’s independent claims 1, 12, 13, 19, 20 and 21 and with respect to these claims, as amended, and their respective dependent claims, the Examiner’s rejection is respectfully traversed.

Applicant’s independent claim 1 has been amended to recite an imaging apparatus comprising: image pickup means, storing means for storing moving image data of a moving image photographed by the image pickup means on a storage medium according to a photographing start instruction, detecting means for detecting whether free space of a storage capacity of the storage medium is not enough, communicating means for transmitting the moving image data to an external device, and controlling means for controlling the image pickup means and the communicating means according to the detecting means detecting that the free space of the storage capacity of the storage medium is not enough during photographing the moving image so as to start to transmit the stored moving image data of the moving image being photographed after the photographing start instruction to the external

device, while continuing photographing the moving image. Applicant's independent claim 19 has been similarly amended.

Applicant's independent claim 12 has been amended to recite an imaging apparatus comprising image pickup means, a memory interface for writing moving image data of a moving image photographed with the image pickup means in a memory according to a photographing start instruction and reading out the moving image data from the memory, writing means for writing the moving image data in a storage device, detecting means for detecting whether free space of a storage capacity of the memory is not enough, communicating means for transmitting the moving image data stored in at least one of the memory and the storage device to an external device, and controlling means for according to the detecting means detecting that the free space of the storage capacity of the memory is not enough during photographing the moving image, starting to transmit the moving image data of the moving image stored in the memory after the photographing start instruction to the external device while photographing the moving image and switching writing of the moving image data output from the image pickup means from the memory to the storage device. Applicant's independent claim 20 has been similarly amended.

Applicant's independent claim 13 has been amended to recite an image data processing system comprising: image pickup means, storing means for storing moving image data of a moving image photographed with the image pickup means on a storage medium in accordance with a photographing start instruction, detecting means for detecting whether free space of a storage capacity of the storage medium is not enough, communicating means for transmitting the moving image data through a transmission line, controlling means for controlling the image pickup means and the communicating means to start transmission of the moving image data of

the moving image stored on the storage medium after the photographing start instruction to an external device according to the detecting means detecting that free space of a storage capacity of the storage medium is not enough during photographing of the moving image data, while the controlling means photographs the moving image, receiving means for receiving the moving image data transmitted from the communicating means through the transmission line, and saving means for saving the moving image data received by the receiving means. Applicant's independent claim 21 has been similarly amended.

The constructions recited in applicant's amended independent claims 1, 12, 13 and 19-21 and applicant's new independent claim 22 are not taught or suggested by the cited art of record. In particular, the cited Todaka, et al. and Porter, et al. references fail to teach or suggest controlling the image pickup means and the communicating means according to the detection that the free space of the storage capacity of the storage medium or memory is not enough during photographing of the moving image data so as to start transmitting the stored moving image data of the moving image being photographed after the photographing start instruction to the external device while photographing the moving image data or controlling to start the transmission of the moving image data of the moving image data stored on the storage medium after the photographing start instruction to an external device according to the detecting means detecting that free space of a storage capacity of the storage medium or memory is not enough during photographing of the moving image data. Applicant's invention, as recited in applicant's amended independent claims 1, 12, 13 and 19-21 and in applicant's new claim 22, transmits to the external device the moving image data of the moving image which is being photographed after the photographing start instruction. The transmission of the moving image data that is being recorded, rather than of the moving image data that has already been stored as a file on

the storage medium, simplifies management of stored files on the storage medium and eliminates additional processing by the apparatus, such as selection of image files to be deleted and deletion of image files already stored on the storage medium to secure sufficient storage space on the storage medium for the image data being recorded.

The cited Todaka, et al. reference discloses a camera system including a camera side storage means (31), a camera side system control means (51), a camera side file transfer means (4) and a transceiver means (60), wherein the system control means controls transmission of image files to and from the storage means and to the transceiver means, supervises the condition of the storage means and controls the initiation of the file transfer. Paragraph [0014]. In particular, Todaka, et al. teaches that image data photographed by an image file generation means (3) is transmitted through the file transfer means to the storage means where the image data is compressed and stored as a file. Todaka, et al. further discloses that the capacity of the storage means is supervised by the system control means and when the capacity of the storage means decreases, the system control means (51) communicates with an external device, i.e. a PC (7), by transmitting a PC start signal through the transceiver means (60) and receiving a response signal from PC (7). Paragraph [0017]. After the system control means (51) receives the response signal, the system control means transmits files, such as images stored in the storage means of the camera, through the file transfer means and the transceiver means to the PC. Paragraphs [0018] and [0019].

Thus, Todaka, et al. only discloses transmitting stored image files from the camera storage means to the external device when the system control means determines that the capacity of the storage means is reduced. As acknowledged by the Examiner, the Todaka, et al. reference does not teach transmitting the image data to the external device while photographing

the moving image data. There is also no mention in Todaka, et al. of controlling the communication apparatus to transmit the stored moving image data of the moving image being photographed or of the moving image stored after the photographing start instruction, to the external device, while photographing the moving image. Instead, Todaka, et al. only teaches transmittal to the external device of one or more image data files that have already been stored on the camera storage means and does not mention controlling to transmit image data of the moving image that is being photographed or of the moving image stored after any specific instruction.

The Examiner has argued that the Porter, et al. publication discloses photographing a moving image data while transmitting stored image data in paragraphs [0009], [0037] and [0038]. Applicant has reviewed the Porter, et al. publication and believes that Porter, et al. fails to teach or suggest controlling to start transmittal of image data stored after the photographing start instruction to the external device while photographing the moving image. More particularly, Porter, et al. discloses an image capture system which includes a digital camera for capturing still images connected to a portable computer with a software-implemented subsystem, in which data is transferred from the camera to the computer for “consumption,” e.g. saving to disc or display. Abstract; Paragraphs [0009], [0022]-[0026]. Porter, et al. discloses that still images captured by the camera can be displayed in real time on the screen of the portable computer and that the system may be arranged to display and/or store moving images captured by the camera. Paragraph [0038]. However, Porter, et al. does not teach or suggest controlling the start of the transmission of moving image data from the camera to the PC at any specified point, and is completely silent as to controlling to start transmission of the moving image data of the moving image stored after the photographing start instruction to an

external device. Moreover, there is no mention anywhere in Porter, et al. of controlling to start to transmit the moving image data according to detecting that the free space of the storage capacity of the storage medium is not enough.

Accordingly, applicant's amended independent claims 1 and 19, which recite controlling the image pickup means and the communicating means according to the detecting means detecting that the free space of the storage capacity of the storage medium is not enough during photographing the moving image so as to start to transmit the stored moving image data of the moving image being photographed after the photographing start instruction to the external device, while continuing photographing the moving image, applicant's amended independent claims 12 and 20, which recite controlling means for according to the detecting means detecting that the free space of the storage capacity of the memory is not enough during photographing the moving image, starting to transmit the moving image data of the moving image stored in the memory after the photographing start instruction to the external device while photographing the moving image, and applicant's amended independent claims 13 and 21, which recite controlling the image pickup means and the communicating means to start transmission of the moving image data of the moving image stored on the storage medium after the photographing start instruction to an external device according to the detecting means detecting that the free space of the storage capacity of the storage medium is not enough during photographing of the moving image data while the controlling means photographs the moving image, and their respective dependent claims, patentably distinguish over the Todaka, et al. publication and the Porter, et al. publication, taken alone or in combination. Moreover, there is nothing added by the Akutsu publication to change this conclusion.



Applicant's newly added independent claim 22, which recites controlling means controlling the recording means and the communicating means according to the detecting means detecting that the free space of the storage capacity of the recording medium is not enough during recording the moving image data so as to start to read out, from the recording medium, the recorded moving image data being recorded after the recording start instruction and to transmit the read moving image data to the external device, while continuing recording the moving image data of the moving image on the recording medium, also patentably distinguishes over the Todaka, et al., Akutsu, and Porter, et al. references.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 790-9286.

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Respectfully submitted,



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